STATE'S RESPONSE TO DEFENDANT'S PETITION TO MODIFY TERMS OF PROBATION

The State of Arizona, by and through undersigned counsel, in response to the defendant's Petition to Modify Terms of Probation, objects to any modifications to the defendant's probation because the defendant has failed to show any change in circumstances since the sentencing.

Rule 27.2, Ariz. R. Crim. P., provides:

> Rule 27.2. Modification and clarification of conditions and regulations
>
> A probation officer or other person designated by the court may modify or clarify any regulation which he or she has imposed. The sentencing court may modify any condition which it has imposed and any regulation imposed by a probation officer, or other person designated by the court, after notice has been provided to the prosecutor and the defendant of proceedings in which the victim has the right to notice pursuant to Rule 27.10. A probationer, probation officer, the State, or other person designated by the court, at any time prior to absolute discharge, may request the sentencing court to modify or clarify any condition or regulation. Additionally, persons entitled to restitution pursuant to a court order, based upon a change of circumstances, may request the sentencing court at any time prior to absolute discharge to modify the manner in which restitution is paid. The sentencing court may, where appropriate, hold a hearing on any such request. A written copy of any modification or clarification shall be given to the probationer.

In *Burton v. Superior Court*, 27 Ariz. App. 797, 799, 558 P.2d 992, 994 (1977), the Court of Appeals held that to justify a change in the terms of probation, the defendant must show a "new event". The defendant in this case has shown no "new event" to establish any reasonable basis to modify his probation pursuant to Rule 27.2, Ariz. R. Crim. P.

The State requests notice of the witnesses that the defendant intends to call to testify, and further requests the defendant to make these witnesses available for the State to interview.